MONTANA LEGISLATIVE HISTORY

Chapter 404 19 95

Bill H _____ S 93 Original bill & history ✓ C

H. Committee on Judiciary		S. Committee on Taxation	
Hearing Date(s) Mar 21	✓ C	Hearing Date(s) Feb 06	✓ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
Date Out Mar 21	✓ C	Feb 06	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

LC 0273

Senate BILL NO. 93

INTRODUCED BY Turnage, Eck, Mathew, Norman, Manning, McCallum, Brown, Watt, Healy

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TAX APPEALS PROCEDURES BY PROVIDING FOR THE RECEPTION OF ADDITIONAL EVIDENCE ON JUDICIAL REVIEW, THE ASSESSMENT OF COSTS ON CERTAIN APPEALS, AND INTERLOCUTORY ADJUDICATIONS; AMENDING SECTION 84-709.1, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-709.1, R.C.M. 1947, is amended to read as follows:

"84-709.1. Judicial review of contested cases. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision in a contested case is entitled to judicial review under this act.

(2) Proceedings for review shall be instituted by filing a petition in district court, and serving a copy thereof on the state tax appeal board, within thirty (30) days after service of the final decision of the state tax appeal board, or if a rehearing is requested within thirty (30) days after the decision thereon. All parties to the appeal shall cause to be served on the state tax appeal board a copy of all pleadings and documents they shall file in such proceeding.

INTRODUCED BILL

(3) Notwithstanding the provisions of section 82-4216, subsection (6), the court may, for good cause shown, permit additional evidence to be introduced.

(4) The court shall assess the costs on appeal incurred by a taxpayer who prevailed before the board, against the department of revenue or other governmental taxing entity which takes the appeal, in any case in which the court affirms the decision of the state tax appeals board. Costs allowed under this subsection include reasonable attorney's fees and other actual and necessary expenses."

Section 2. There is a new R.C.M. section numbered 84-709.2 that reads as follows:

84-709.2. Petition for interlocutory adjudication. After a proceeding has commenced before a county tax appeals board, or the state tax appeals board, but before arguments have been heard, the parties to the proceeding may petition a district court to make an interlocutory adjudication as provided under section 84-709.3. A petition for such adjudication shall be signed by each party to the proceeding. One party shall be designated as the petitioner and every other party shall be designated a respondent. The court may in its discretion grant such a petition if it appears that the issues presented involve the interpretation of a constitutional provision, statute or regulation and do

SB 93

not require the hearing of evidence to be resolved, and that the controversy would be more expeditiously resolved by such adjudication.

Section 3. There is a new R.C.M. section numbered 84-709.3 that reads as follows:

84-709.3. Jurisdiction to make interlocutory adjudication. A district court may make an interlocutory adjudication of an issue pending in a county or state tax appeals board if that issue involves only the interpretation of a constitutional provision, statute or regulation and does not require the hearing of evidence. Appeals from the ruling of the court may be appealed as in other civil actions.

-End-

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MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 6, 1975

The sixteenth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Captitol Building by Chairman Nees.

ROLL CALL: Roll call found all members present with the exception of Senator Manning who was excused.

The following witnesses were present:

Ray Wayrynen	State Tax Appeals Board
Charles A. Smith	"
Jim Senechal	Dept. of Revenue
Bill Groff	"
Jerry Foster	"

CONSIDERATION OF SENATE BILL 93: Sen. Turnage discussed this bill and mentioned the need for an amendment to the bill. He said subsection (4) should be deleted from the bill. He also introduced Mr. Groff who said several cases had arisen and this legislation would help in proper disposition of the cases.

Mr. Smith also spoke and said he is neither for nor against the bill, but questioned the necessity of the new sections in the bill. Sen. Turnage responded saying Section 3 would eliminate some unnecessary steps for the courts.

Chairman Watt asked for other proponents or opponents and opened the meeting for questions.

CONSIDERATION OF SENATE BILL 94: Sen. Turnage introduced this bill as well, which authorizes the Department of Revenue to grant an extension of time in which to file corporation license tax returns. Mr. Foster also spoke and said the Dept. has found the larger corporations have to have at least 6 months in which to file their returns which involves filling out additional forms. This would eliminate a lot of time and and extra forms and since the corporations are granted extensions on request, this legislation would save time and expense for the Department.

Chairman Watt asked for other proponents or opponents of the bill and questions by the committee.

CONSIDERATION OF SENATE BILL 96: Sen. Mathers introduced Mr. Wayrynen who explained the difficulties encountered in Custer County this past summer when the County Tax Appeals Board did not have sufficient time to consider the many cases it had before it. 90 of the cases had been filed on the last day of the deadline, which gave the Board little time to investigate and hear the appeals. For this reason the change in the deadline date.

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Mr. Groff said the Department was also in support of the bill and following his statement, Chairman Watt asked for other proponents or opponents of the bill and permitted questions by committee members.

DISPOSITION:
Sen. Mathers Moved SB96 DO PASS. Motion carried unanimously, Sen. Manning absent, not voting.

Sen. Turnage Moved SB94 DO PASS. Motion carried unanimously, Sen. Manning absent, not voting.

Sen. Turnage Moved Adoption of Amendments to SB93. Motion carried, see attached copy.
Sen. Turnage Moved SB93 DO PASS AS AMENDED. Motion carried unanimously, Sen. Manning absent, not voting.

Chairman Watt then had the committee refer to SB230, previously heard by the committee. An amendment was suggested and discussed and members questioned the system of taxing vending machines in the state. Mr. Tippy made inquiries also, to acquaint the committee with present statutes. Following this discussion, members decided they would move on the bill.

DISPOSITION:
Sen. Towe Moved Adoption of Amendments to SB230. Motion carried, see attached copy.
Sen. Norman Moved SB230 DO PASS AS AMENDED. Motion carried unanimously, Sen. Manning absent, not voting.

The committee then reconsidered SB72, also previously heard. They discussed an amendment to the bill regarding the exemption on interest, but after computing difference in revenues and the impact to the state, decided to dispose of the bill.

DISPOSITION:
Sen. Towe Moved SB72 DO NOT PASS. Motion carried by a Roll Call vote of 5-2, copy attached.

There followed open discussion on SB66, also previously heard by the committee. Members asked a number of questions regarding the water consumption, proposed tax on it, and after considerable discussion, concluded that the coal gasification plants might be some years in the future, thus this legislation might be thought of as being premature. They made the point of not wanting to scare industry out of the state before it came in, which they felt might happen should this tax be placed on the state's water. Mr. Tippy had done the research on the bill for Sen. Colburg, the bill's author, and gave the committee some information he had obtained from the state of New Mexico.

Following this discussion, the meeting was adjourned.

Robert D Watt
ROBERT D. WATT, CHAIRMAN

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ROLL CALL

TAXATION COMMITTEE

44th LEGISLATIVE SESSION - - 1975 Date 2/6

NAME	PRESENT	ABSENT	EXCUSED
SEN. HEALY	✓		
SEN. BROWN	✓		
SEN. MANNING			✓
SEN. MATHERS	✓		
SEN. NORMAN	✓		
SEN. TOWE	✓		
SEN. TURNAGE	✓		
CHAIRMAN WATT	✓		

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SENATE BILL NO. 112 Senator Devine is chief sponsor of this act to increase the minimum proof of financial responsibility from ten thousand dollars to twenty-five thousand dollars.

A motion of BE CONCURRED IN by Representative Baeth was seconded by Representative Seifert. Representative Lester stated this bill doesn't tie in with his bill which presently is in the Senate Judiciary and that it can go through without his bill. He stated he supports the motion.

Motion BE CONCURRED IN carried unanimously.

SENATE BILL NO. 78 Senator Greely is chief sponsor of this measure regulating financial support of candidates. Following brief discussion, the decision was made to defer action on this bill until more input can be obtained.

SENATE BILL NO. 123 Senator Roberts is chief sponsor of this act to provide definitions of sexual crimes by adding a definition of the term "without consent". Representative Lory moved BE CONCURRED IN. Motion carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

SENATE BILL NO. 93 Senator Turnage is chief sponsor of the act to revise tax appeals procedures and establishing provisions for so doing. Representative Moore stated he feels this is a fairly innocuous bill and moved to amend in the title, line 7, by striking "the assessment of costs on certain appeals, and interlocutory adjudications". Following brief discussion, a motion to amend carried unanimously.

Motion by Representative Moore of BE CONCURRED IN AS AMENDED carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

SENATE BILL NO. 201 Senator Turnage is chief sponsor. Chairman Huennekens stated the sole intent of the bill is to clarify interstate problem with third degree heirs. Frances Elge testified on this.

A motion by Representative Rasmussen of BE CONCURRED IN carried unanimously with Representatives Meloy, Kimble, Yardley, Anderson, Hager and Day absent.

Time ran out and the meeting adjourned at 11:15 a.m.

Herb Huennekens

Representative Herb Huennekens
Chairman

HH:pb

SENATE BILL NO. 93

INTRODUCED BY TURNAGE, TOWE, MATHERS, NORMAN, MANNING, MCOMBER, BROWN, WATT, HEALY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TAX APPEALS PROCEDURES BY PROVIDING FOR THE RECEPTION OF ADDITIONAL EVIDENCE ON JUDICIAL REVIEW~~,--THE--ASSESSMENT--OF--COSTS--ON CERTAIN--APPEALS,--AND-INTERLOCUTORY-ADJUDICATIONS~~; AMENDING SECTION 84-709.1, R.C.M. 1947."

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(3) Notwithstanding the provisions of section 82-4216, subsection (6), the court may, for good cause shown, permit additional evidence to be introduced.

~~(4)--The--court--shall--assess--the--costs--on---appeal incurred--by--a--taxpayer--who--prevailed--before-the-board, against-the-department--of--revenue--or--other--governmental taxing--entity--which-takes-the-appeal,-in-any-case-in-which the-court-affirms-the-decision--of--the--state--tax--appeals board.----Costs---allowed---under--this--subsection--include reasonable-attorney's-fees-and-other--actual--and--necessary expenses.~~"

Section 2. There is a new R.C.M. section numbered 84-709.2 that reads as follows:

84-709.2. Petition for interlocutory adjudication. After a proceeding has commenced before a county tax appeals board, or the state tax appeals board, but before arguments have been heard, the parties to the proceeding may petition a district court to make an interlocutory adjudication as provided under section 84-709.3. A petition for such adjudication shall be signed by each party to the proceeding. One party shall be designated as the petitioner and every other party shall be designated a respondent. The court may in its discretion grant such a petition if it appears that the issues presented involve the interpretation

REFERENCE BILL

of a constitutional provision, statute or regulation and do not require the hearing of evidence to be resolved, and that the controversy would be more expeditiously resolved by such adjudication.

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-End-